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UNCLAS SECTION 01 OF 02 BAGHDAD 003988

SIPDIS

SENSITIVE BUT UNCLASSIFIED

E.O. 12958: N/A

TAGS: [ENRG](#) [ECON](#) [EPET](#) [ETRD](#) [PGOV](#) [IZ](#)

SUBJECT: DRAFT LAW LIBERALIZING FUEL IMPORTS AND

DISTRIBUTION

REF: BAGHDAD 03939

11. (SBU) Summary: Post has obtained a draft of a proposed GOI law to liberalize the import and distribution of refined fuel products (text in para 4). If adopted and implemented, the draft law will END the State Oil Marketing Company's monopoly on fuel imports. The law is ambiguous, however, as to whether the state will retain at least some price regulating authority. End Summary.

Breaking SOMO's Monopoly

12. (SBU) The Embassy informally has translated a draft law to liberalize the import and distribution of fuel in Iraq. If adopted and implemented, this law will break up the State Oil Marketing Organization (SOMO)'s current monopoly on the import of some fuel products. Specifically the law will:

- Allow private companies to import and sell premium grade fuel (92 octane or higher), low-sulphur diesel, and lubricants;
- Exempt these companies from paying taxes on the imported products for two years;
- Allow private companies to distribute their product via gas stations, which they may either lease or build.

The Ministry of Justice is currently examining the draft law. Minister of Oil Ibrahim Bahr al-'Ulum told us September 17 (reftel) that he expects it to be presented to the TNA in October. (Comment: The chapeau of this law suggests that it would be issued as a decision with the force of law by the Ministries Council, but Post's understanding is that this authority expired with the stand-up of the ITG. Post will clarify with the Ministry the process by which it intends this draft to become law. End comment.)

Some Price Controls Remain?

13. (SBU) Whether or how far the law will liberalize the price at which these new firms may sell the products they import, however, is not clear. Article 4 provides that importing companies have the right "to determine the sale prices for the refined petroleum products, without regard for prices issued by the Ministry of Oil." In a cover memo to the Council of Ministers, however, Minister of Oil Ibrahim Bahr al-'Ulum states that, although one of the law's goals is to increase involvement of the private sector, the Ministry of Oil intends to "gradually amend the price of fuel products and reduce subsidies." Moreover, Article 8 of the draft law reserves the right of the GOI Economic Committee (whose members include the ministries of Trade, Finance, Oil, and the Central Bank of Iraq [CBI]) to "determine the prices of the refined petroleum products mentioned in a manner that will rationalize the cost elements of production, refining, and importation, as well as improving the level of services provided to the citizens." This article does not differentiate between imported and domestically produced products, thereby causing tension, if not a direct conflict, with Article 4's grant of authority to companies to set their own sales prices.

14. (SBU) Comment: Earlier discussions with the GOI and MO in particular had indicated that the price of imported fuel would be unregulated, with the GOI only gradually relinquishing control over the price of domestically produced products. While this may still be the GOI intent, Article 8 does not specify. Oil Minister al-'Ulum's confidence that this order will be adopted "easily" in October may be based upon in part upon this ambiguity. Embassy will clarify this critical point as soon as possible. End Comment.

15. (SBU) BEGIN TEXT OF EMBASSY INFORMAL TRANSLATION:

Order Number:

Date:

Based on the rules of Article 2 (B-1) from the Iraqi State Law for the transitional period (TAL), and the second

section of its addition, and based on the authorization of the President's Assembly, the Council of Ministers decided the following:

Number ()

Exemptions from the rules of benefits of Petroleum Law

Number (49) for the year 1970, and its amendments.

Article 1: Private sector companies have the right to import, store and sell for domestic consumption, directly or through authorized agents, the refined products mentioned below:

- Automobile gasoline with 92 octane or higher;
- GasOil under the condition that its sulphur content does not exceed 1 percent;
- Motor oil and all types of lubricating agents.

Article 2: Refined Petroleum Products are exempt for two years from the date the issue of this order from taxes, import fees, max-fees (sic) and the tax for the Reconstruction of Iraq. Review of this exemption shall continue in light of market developments.

Article 3: In addition to the right to import fuel, companies also have the right to build (as governed by existing laws and Ministry of Oil regulations) or lease gas stations for the sale of imported or domestically produced fuel. Companies may construct storage facilities only if they are not involved in the sale of fuel products.

Article 4: The importing companies have the right to determine the sale prices for the refined petroleum products, without regard for prices issued by the Ministry of Oil.

Article 5: The owners of the gas stations that currently have contracts with the Ministry of Oil or SOMO are allowed to terminate their existing operating and preparation contracts and enter into new contracts with importing companies.

Article 6: The Ministry and the Central Apparatus of Control and Measurements, in addition to other ministries as necessary, have the responsibility to monitor companies' compliance with relevant safety and environmental regulations.

Article 7: Companies or their authorized agents found guilty of selling domestically produced refined petroleum products shall be fined 10 million Iraqi dinar. Should the activity continue, the fine will increase to 50 million Iraqi dinar and the company's operations may be suspended.

Article 8: The Economic Committee, based on a suggestion from the Ministry of Oil, is authorized to determine the prices of the refined petroleum products mentioned below in a manner that will rationalize the cost elements of production, refining, and importation, as well as improving the level of services provided to the citizens.

- Benzene (both regular and premium)
- GasOil (diesel)
- White gas (kerosene)
- Liquid propane gas (LPG)

Article 9: Ministry of Oil is to issue orders to execute the rules of this decision.

With respect to the increase in demand on refined petroleum products, and the limitations of production capacities of the refineries currently, which require securing additional amounts to facilitate the ability for the citizens to acquire these refined products, and improvement of services, and opening the way to the private sector to support this activity...Issuing of this order has been decided.

END TEXT OF EMBASSY INFORMAL TRANSLATION.

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